

**United States Bankruptcy Court
Northern District of Illinois
Eastern Division**

Transmittal Sheet for Opinions for Publishing and Posting on Website

Will This Opinion be Published? Yes

Bankruptcy Caption: MEP Infrastructure Solutions, Inc.

Bankruptcy No.: 23 B 8505

Date of Issuance: November 15, 2023

Judge: A. Benjamin Goldgar

Appearances of Counsel:

Attorneys for debtor MEP Infrastructure Solutions, Inc.: Paul M. Bauch, Carolina Y, Sales,
Bauch & Michaels, LLC, Chicago, IL

Attorneys for Patrick S. Layng, U.S. Trustee: Spencer Ezell, U.S. Dept. of Justice, Office of the
U.S. Trustee, Chicago, IL

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
MEP INFRASTRUCTURE)	No. 23 B 8505
SOLUTIONS, INC.,)	
)	
Debtor.)	Judge Goldgar

MEMORANDUM OPINION

Before the court for ruling in this chapter 11 case is the amended first interim application of Bauch & Michaels, LLC, for compensation as counsel to debtor MEP Infrastructure Solutions, Inc. Patrick S. Layng, U.S. Trustee, has objected to the application.

For the reasons below, the application will be granted with only a minor reduction in the fees sought.

1. Jurisdiction

The court has subject matter jurisdiction under 28 U.S.C. § 1334(b) and the district court's Internal Operating Procedure 15(a). This is a core proceeding. *See* 28 U.S.C. §§ 157(b)(2)(A), (B), (O); *In re Trevino*, 648 B.R. 847, 858-59 (Bankr. S.D. Tex. 2023).

2. Background

The few relevant facts come from the court's docket and the fee application. No facts are in dispute.

MEP filed this subchapter V case in June 2023 and the next month received permission to retain as its counsel Paul M. Bauch and Carolina Y. Sales of Bauch & Michaels. Bauch is a bankruptcy lawyer with 40 years' experience. Sales is a bankruptcy lawyer with 18 years'

experience. Both are partners in the firm. Bauch's hourly billing rate is \$500; Sales's is \$300.^{1/}

In October, Bauch & Michaels submitted its first interim application for compensation, seeking \$47,556.83 in fees and \$591.33 in expenses for the period June 28, 2023, to September 30, 2023. During that period, according to the application, Bauch, Sales, Kenneth A. Michaels (another partner), and Staci M. Mohan (a legal assistant) spent 138 hours on the case. Of that time, the largest portions were devoted to general case administration and preparation of a plan of reorganization. Sales did most of the work, 106.6 hours. Michaels was only minimally involved, spending less than two hours on real estate matters.

Only the U.S. Trustee has objected to the application for compensation, and his objection is limited. He complains that Bauch & Michaels spent time on office conferences and meetings, and under section 330(a)(4)(i) of the Bankruptcy Code, 11 U.S.C. § 330(a)(4)(i) that time is not compensable because it entailed the "unnecessary duplication of services." The U.S. Trustee says the fees should be reduced by \$7,440.

3. Discussion

The U.S. Trustee is mistaken. Office conferences and meetings between two lawyers are not the "unnecessary duplication of services." And although office conferences and meetings must be necessary and must take a reasonable time, the conferences and meetings here appear to have been both necessary and brief. With a slight reduction in the fees for another reason, the application will be granted.

Section 330(a)(1) of the Code allows the court to award "a professional person employed under section 327 or 1103 . . . reasonable compensation for actual, necessary services." 11

^{1/} Sales has since left the firm and joined another. She was allowed to remain as co-counsel for MEP over the U.S. Trustee's objection.

U.S.C. § 330(a)(1). In determining what is “reasonable,” the court must consider “all relevant factors,” including the time spent, the rates charged, whether the services were necessary or beneficial, and whether they were performed in a reasonable amount of time. 11 U.S.C. § 330(a)(3)(A)-(D). The Code also sets limits. One is that the court “shall not allow compensation” for the “unnecessary duplication of services.” 11 U.S.C. § 330(a)(4)(A)(i).

The U.S. Trustee’s complaint with the Bauch & Michaels application has plenty of support in the case law. Many decisions hold (or suggest) that a conversation or meeting between two lawyers in the same office amounts to the “unnecessary duplication of services.” *In re Stainless Sales Corp.*, No. 17 B 3148, 2017 WL 2829675, at *2 (Bankr. N.D. Ill. June 27, 2017); *In re Canopy Fin., Inc.*, No. 09 B 44943, 2015 WL 2330170, at *1 (Bankr. N.D. Ill. May 13, 2015); *In re Kennedy Mfg.*, 331 B.R. 744, 750 (Bankr. N.D. Ohio 2005); *Ray v. University of Tulsa (In re Ray)*, 283 B.R. 70, 83 (Bankr. N.D. Okla. 2002); *In re Grosswiler Dairy, Inc.*, 257 B.R. 523, 531 (Bankr. D. Mont. 2000); *In re Adventist Living Ctrs., Inc.*, 137 B.R. 701, 716 (Bankr. N.D. Ill. 1991). “While some intraoffice conferences may be necessary,” these decisions declare, “no more than one attorney may charge for it unless an explanation of each attorney’s participation is given.” *Adventist*, 137 B.R. at 716 (internal quotation omitted).

But the decisions are wrong, at least as far as section 330(a)(4)(A)(i) goes. Conversations and meetings between two lawyers are not the “duplication of services” because nothing is duplicated. Conversations and meetings by definition involve more than one person; otherwise, they are neither conversations nor meetings. Just as it “takes two to tango,” it takes two to converse or meet. “Duplication” instead means two or more lawyers performing a task that a single lawyer could have performed: researching a legal issue, writing a motion or brief, making a routine court appearance, and so on. A single lawyer cannot have a conversation or

hold a meeting – not, at least, without raising concerns about his sanity.

And even if conversations and meetings between two lawyers could be termed “duplication,” they are not automatically “unnecessary,” as the decisions suggest. The law is by nature a thinking-and-speaking profession, one taken up with the communication of ideas. Brainstorming with other lawyers has value: rare is the lawyer who routinely comes up with great ideas on his own. Law firms are also hierarchical organizations in which senior lawyers supervise and train junior ones. If they know what is good for them, younger lawyers working on a case keep their superiors informed. And if senior lawyers know what is good for them, they teach their juniors how to practice. Most if not all of this is done orally, telepathy not being an option.^{2/}

None of this means that meetings and conversations are per se compensable, any more than they are per se non-compensable.^{3/} They must still be “necessary” or “beneficial” and must have taken a “reasonable amount of time.” 11 U.S.C. § 330(a)(3)(D). But the meetings and conversations disclosed in the Bauch & Michaels application appear to have been necessary. They concerned preparation of MEP’s schedules, case status, case strategy, preparation of motions, drafting a plan, creditor claims, cash collateral and financing, and real estate concerns –

^{2/} Because an intraoffice conversation or meeting always requires at least two lawyers, allowing only one to bill the time is also unfair. Every task a lawyer performs has an opportunity cost. When a lawyer is performing one task, he cannot perform another. The lawyer who converses with a second lawyer about a case has spent time on the conversation he could have spent on something else. If he cannot bill for the conversation, he goes uncompensated. *See United States ex rel. Fry v. Health Alliance of Greater Cincinnati*, No. 1:03-CV-00167, 2008 WL 5282139, at *7 (S.D. Ohio Dec. 18, 2008) (“[L]awyers say that ‘time is money’” because “most lawyers generate income by billing for time.”).

^{3/} Nor does it mean that intraoffice meetings and conversations can never entail the “unnecessary duplication of services.” Meetings and conversations involving more than two lawyers is unnecessary duplication when the additional lawyers’ presence contributes nothing.

all matters that debtor’s counsel in a chapter 11 case would be expected to discuss. The time spent was reasonable, too. Nearly all the conversations and meetings took 20 minutes or less. Only one took more than an hour. Most involved just Sales and Bauch. Of the fees sought, a mere 15% are for intraoffice conversations and meetings, a modest proportion.

That said, the application does have one deficiency. In four instances, Bauch and Sales billed different amounts of time for the same conversations: June 28, June 29, August 22, and September 25. When a professional seeks compensation for meetings and conferences, the application must “document consistent amounts of time by all participants” or “set forth an explanation for any differential.” *In re Fibermark, Inc.*, 349 B.R. 385, 396 (Bankr. D. Vt. 2006). The amounts of time for these dates are inconsistent, and Bauch & Michaels offers no explanation why. It will be assumed that the shortest time is correct, and the fees will be reduced accordingly – by \$530 in all.

4. Conclusion

For these reasons, the first interim application of Bauch & Michaels, LLC, is construed as the application of Mr. Bauch and Ms. Sales^{4/} for compensation and is granted as follows. Mr. Bauch and Ms. Sales are allowed compensation in the reduced amount of \$47,026.83 for the application period and reimbursement of expenses in the amount of \$591.33 for the application period.

Dated: November 15, 2023

A. Benjamin Goldgar
United States Bankruptcy Judge

^{4/} Individual lawyers, not law firms, appear in the bankruptcy court. L.R. 2090-5(A)(3). MEP was allowed to retain Mr. Bauch and Ms. Sales, not Bauch & Michaels LLC.